

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

In re: Valsartan, Losartan, and Irbesartan
Products Liability Litigation

HUMANA INC.

Plaintiff,

vs.

TEVA PHARMACEUTICALS USA, INC.,
TEVA PHARMACEUTICAL INDUSTRIES
LTD., ARROW PHARM MALTA LTD.,
ACTAVIS LLC, and ACTAVIS PHARMA,
INC.,

Defendants.

Master Docket No. 19-2875 (RBK/JS)

**UNOPPOSED MOTION FOR LEAVE
TO AMEND COMPLAINT**

Civil Action No. 20-10170

UNOPPOSED MOTION FOR LEAVE TO AMEND COMPLAINT

Humana Inc. (“Humana” or “Plaintiff”) brings pursuant to Fed. R. Civ. P. 15 and L.R. 15.1 this Motion for Leave to Amend its Complaint (the “Motion”). Counsel for Defendants Teva Pharmaceuticals USA, Inc., Teva Pharmaceutical Industries Ltd., Arrow Pharm Malta Ltd., Actavis LLC, and Actavis Pharma, Inc. (“Defendants”) were consulted regarding their position on this Motion and they responded that they do not oppose leave to amend.

Since before the filing of its initial complaint against the currently named Teva Defendants on August 7, Humana has engaged in good faith discussions with the other manufacturer defendants named in other suits in this MDL in an attempt to forestall or eliminate the need for this amended complaint. Unfortunately, those conversations have met with very

limited success. Humana therefore requests leave from the Court to amend its complaint to name as defendants those companies listed below, all of which are already parties to this MDL.

Attached to this motion as Exhibit A is a copy of Humana's proposed amended complaint. The proposed amended complaint generally differs from the operative complaint in the following ways:

- It adds as defendants Hetero Labs, Ltd., Hetero Drugs, Limited, Hetero USA Inc., Camber Pharmaceuticals, Inc., Aurobindo Pharma, Ltd., Aurobindo Pharma USA, Inc., Aurolife Pharma, LLC, Torrent Private Limited, Torrent Pharmaceuticals, Ltd., and Torrent Pharma, Inc., and adds allegations related thereto;
- it adds allegations and claims relating to losartan and irbesartan drugs pursuant to the Judicial Panel on Multidistrict Litigation's December 18, 2019 Order expanding the scope of this MDL to include such drugs;
- it contains typographical, administrative, and stylistic amendments.

All of these amendments are shown in detail in a "redline" comparison between the operative and proposed amended complaint attached to this Motion as Exhibit B.

"Under Federal Rule of Civil Procedure 15(a), leave to amend 'shall be freely given when justice so requires.' 'Among the grounds that could justify a denial of leave to amend are undue delay, bad faith, dilatory motive, prejudice and futility.'" *Hammond v. Lancaster City Bureau of Police*, 799 F. App'x 158, 162 (3d Cir. 2020) (citing *In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1434 (3d Cir. 1997)). Here, Humana has not unduly delayed and has not acted in bad faith or with dilatory motive. Nor would amendment prejudice any of the current or prospective defendants, each of which has been aware of the existence and nature of Humana's claims as a result of both the ongoing litigation in this MDL, and conversations

between Humana and those defendants' counsel about these very claims. No part of Humana's initial complaint has been held to be insufficient, so there is no basis on which to conclude that the proposed amendments would be futile.

For the foregoing reasons, Humana respectfully requests that this Court grant its motion for leave and allow it to file the amended complaint attached hereto as Exhibit A.

Dated: December 17, 2020

Respectfully submitted,

/s/ Benjamin E. Waldin

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Counsel for Plaintiff Humana Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of December 2020, I caused the foregoing
Unopposed Motion for Leave to Amend Complaint, with Exhibits, to be filed electronically
through the CM/ECF system, which will send notice of filing to all CM/ECF participants.

/s/ Benjamin E. Waldin
Benjamin E. Waldin